

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE:

INFRA TECHNOLOGY, LLC

DEBTOR

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§  
§  
§  
§  
§

CASE NO. 19-31444  
CHAPTER 7

JUDGE EDUARDO V. RODRIGUEZ

**TRUSTEE'S MOTION FOR DETERMINATION OF *AD VALOREM* PERSONAL  
PROPERTY TAX LIABILITY PURSUANT TO SECTION 505  
OF THE BANKRUPTCY CODE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN TWENTY-ONE (21) DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

To the Honorable Eduardo V. Rodriguez,  
United States Bankruptcy Judge:

COMES NOW Eva S. Engelhart, Chapter 7 Trustee who would show as follows:

**A. Jurisdiction, Venue and Constitutional Authority**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B), (K) and/or (O) and arises in and/or under Title 11. The statutory predicate for the relief sought herein is 11 U.S.C. § 505.

2. Venue is proper under 28 U.S.C. §§ 1408 and/or 1409.

3. This Court has constitutional authority to enter a final order regarding this matter. This motion concerns essential bankruptcy matters which have no equivalent in state law thereby rendering the Supreme Court's opinion in *Stern v. Marshall* inapplicable. *See In re Carlew*, 469 B.R. 666, 672 (Bankr. S.D. Tex. 2012) (discussing *Stern v. Marshall*, 131 S.Ct. 2594 (2011)). In the alternative, all the matters addressed in this motion are essential bankruptcy matters which trigger the public rights exception. *See Id.*

To the extent the Court determines that it does not have authority to enter a final order on a portion of or all of the Motion, the Trustee requests that the Court issue a report and recommendation for a final order to the United States District Court for the Southern District of Texas, Houston Division.

### **B. Background**

4. On March 14, 2019, INFRA Technology, LLC (the “***Debtor***”) filed for voluntary Chapter 7 bankruptcy protection. On the same date, the Trustee was appointed interim Chapter 7 Trustee and thereafter became permanent Trustee.

5. Prior to the bankruptcy filing, the Debtor was engaged in the business of developing a gas-to-liquid chemical processing test plant in Wharton, Texas, utilizing the concept that natural gas could be converted to another usable commercial product via a proprietary process (the “***GTL plant***”). The GTL plant was assembled on approximately 5.2 acres of real property purchased by the Debtor located at 7391 US-59, Wharton, Texas 77488 (the “***Property***”). An image of the GTL plant is set out below:



6. As noted above, the GTL plant was intended as a test facility to prove the concept of production and was never intended, or designed, to produce product in commercially sustainable quantities. Rather, the goal was to be able to produce sufficient volumes of product to specification for a period of time and, once this was achieved, a larger production facility(ies) would be built to actually produce product

in commercially viable amounts. However, by the bankruptcy filing, the GTL plant had never produced any product and the Debtor's principals estimate that in order for the plant to be able to produce up to 15-barrels a day in product, an additional investment of approximately \$3 million in equipment and an additional \$4 to 5 million in working capital was required. The Debtor's principals further opined to the Trustee that to get to the target production goal of 100 barrels a day, a total of \$12 million in further investment, inclusive of the foregoing, is required.

7. Further, as noted above, the product the GTL plant hopes to achieve production of is the subject of a proprietary process, the intellectual rights for which are owned by INFRA XTL Technology, Ltd. (Cyprus), not the Debtor. The Debtor does not even possess a written license to these IP rights. The owner of these IP rights is 100% equity owner of the Debtor.

8. In 2017, the Debtor protested the appraised value of the GTL plant and went through a protest hearing (only at the administrative level), resulting in a tax appraised value of the GTL plant of \$7,525,000. The Debtor did not utilize the services of professionals of any kind, or appraisals, to assist in this process.

9. In 2018, the Debtor protested the appraised value of the GTL plant; however, did not proceed to a protest hearing, resulting in a tax appraised value of the GTL plant of \$8,759,745. Again, the Debtor did not utilize the services of professionals of any kind, or appraisals, to assist in this process.

10. The preliminary valuation of the GTL plant by the Wharton County Appraisal District for the year 2019 is \$11,886,300. The Trustee vigorously disputes this valuation.

11. On May 10, 2019, the Wharton County Taxing Authorities<sup>1</sup> filed an amended proof of claim number 10 in the total amount of \$428,414.59 for unpaid 2018 property taxes and estimated 2019 taxes on the GTL plant and Property<sup>2</sup>. The estimated taxes due for 2019 on the GTL plant only is \$232,654.12, based upon WCAD's 2019 valuation thereof.

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<sup>1</sup> Being Wharton County, Wharton I.S.D., Coastal Bend Groundwater Dist., Wharton Co. ESD#1, Emergency Services Dist#3, Wharton County Jr. College and FM Road (collectively the "Taxing Authorities").

<sup>2</sup> The Property is comprised of 2 separate but contiguous tracts land, hence two tax account numbers.

12. On April 1, 2019, the Court entered an Order authorizing the Trustee's sale of the Property and GTL plant by way of public internet auction to commence on May 13, 2019 concluding on May 15, 2019. The highest offer received for the GTL plant at the auction was \$225,000 and is considered by the Trustee to be insufficient and she will not recommend approval thereof to the Court at the sale approval hearing set for June 11, 2019 @ 2:00 p.m., if that hearing occurs. In the interim time period, the Trustee is attempting to obtain highest and best bids for the GTL plant from parties she believes to be interested in purchasing the same.

**C. Request for Relief**

13. Through this Motion, the Trustee seeks entry of an order determining the proper 2019 tax appraised value for the GTL plant and the Debtor's 2019 *ad valorem* personal property tax liability to all applicable taxing authorities related to the GTL plant (the "2019 Personal Property Taxes"). It is the Trustee's position that the 2019 Appraised Value is grossly overstated and a significant reduction of both the 2019 Appraised Value and the 2019 Personal Property Taxes is justified under the circumstances.

**D. Argument and Authorities**

14. 11 U.S.C. § 505 of the United States Bankruptcy Code provides in relevant part as follows:

(a)(1) Except as provided in paragraph (2) of this subsection, the court may determine the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assessed, whether or not paid, and whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction.

(2) the court may not so determine –

...

(C) the amount or legality of any amount arising in connection with an *ad valorem* tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under applicable nonbankruptcy law has expired. 11 U.S.C. § 505 (a)(1) and (a)(2)(C). Thus, a party may only challenge an *ad valorem* tax if the applicable non-bankruptcy law period for making such challenges has not already expired.

15. Neither the time period in which to protest the 2019 property tax valuation of the GTL plant nor the Debtor's personal property tax liability therefore were delinquent on the Petition Date or the date of filing of this motion.

16. There is no better indicator for the actual market value of property than what a willing buyer is willing to offer and a willing seller is willing to accept for that property. The Trustee posits that the results of pending sale of the GTL plant will be the actual market value of the GTL plant and should be its value for all purposes, including taxation. Alternatively, the Debtor obtained an appraisal of the GTL plant in November 2018, only two months prior to January 1, 2019, which valued the GTL plant at between \$400,000 and \$1,700,000. No material alteration of the GTL plant occurred after this valuation date and, in the alternative, the appraised value should fall within this range.

WHEREFORE, based on the foregoing, and such arguments and evidence presented at the hearing on this motion, the Trustee respectfully requests that the Court enter an order determining both the 2019 Appraised Value of the Property, and the correct amount of the 2019 Personal Property Taxes due thereon, and granting the Trustee all such other and further relief, both at law and in equity, to which she may justly be entitled.

Respectfully submitted,

*/s/ Marc Douglas Myers*

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Marc Douglas Myers  
Ross, Banks, May, Cron & Cavin, P.C.  
SBN 00797133  
7700 San Felipe, Suite 550  
Houston, Texas 77063  
(713) 626-1200; (713) 623-6014 fax  
[mmyers@rossbanks.com](mailto:mmyers@rossbanks.com)  
COUNSEL FOR THE TRUSTEE

#### **CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2019, a true and correct copy of the foregoing was sent via regular US mail to the Debtor(s), counsel for the Debtor(s), the Trustee, counsel for the Trustee, the US Trustee, all creditors and all persons requesting notice as set forth below unless otherwise served by the CM-ECF system.

*/s/ Marc Douglas Myers*

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Marc Douglas Myers

INFRA Technology LLC  
1980 Post Oak Blvd., Suite 1500  
Houston, TX 77056-3845

ADP  
undeliverable  
Allstar Sanitation Services

PO Box 1090  
El Campo, TX 77437-1090  
American Welding Services

8244 Harborside Dr.  
Galveston, TX 77554-7199

Ann Harris Bennett  
PO Box 3547  
Houston, TX 77253-3547

Apache Industrial Services  
250 Assay St. Suite 500  
Houston, TX 77044-3507

Aspen Technology  
PO Box 347374  
Pittsburgh, PA 15251-4374

Blue Cross Blue Shield of Texas  
P.O. Box 731428  
Dallas, TX 75373-1428

Carey Boiler Works  
616 Hepburn St.  
Williamsport, PA 17701-5007

Cintas  
6707 W. Sam Houston Prwy N  
Houston, TX 77041-4099

City of Wharton  
120 E Caney St.  
Wharton, TX 77488-5006

CleanCo Systems  
P.O. Box 1569  
Channelview, TX 77530-1569

Cook Compression  
11951 N Spectrum Blvd  
Houston, TX 77047-7803

Cross Roads Oil Field Supply  
PO Box 1546  
El Campo, TX 77437-1546

Crystal Clean  
13621 Collections Center Drive  
Chicago, IL 60693-0136

Culligan  
5450 Guhn Road  
Houston, TX 77040-6211

Dmitrii Popov  
5280 Caroline St., Apt. 907  
Houston, TX 77044-5883

Enterprise Products  
P.O. Box 4324  
Houston, TX 77210-4324

GBSM Service and Management  
14303 Hartshill Dr  
Houston, TX 77044-5067

Grace Utley, TAC  
P.O. Box 189  
Wharton, TX 77488-0189

H&E Equipment Services, Inc.  
502 FM 359 Road South  
Brookshire, TX 77423-9005

Haldor Topsoe  
17629 El Camino Real, Suite 300  
Houston, TX 77058-3076

Hoerbiger Service Inc.  
1191 East Newport Center Drive, Ste 210  
Deerfield Beach, FL 33442-7708

Humana Insurance Co.  
P.O. Box 3024  
Milwaukee, WI 53201-3024

Huseyin Turanli  
5454 Newcastle St, Apt. 1220  
Houston, TX 77081-2263

INFRA XTL Technology LTD  
Riga Feraiou, 2, Limassol Center  
Block B, 6th Floor, Office 601  
P.C. 3095, Limassol, Cyprus

IRS

Centralized Insolvency Operati  
PO Box 7346  
Philadelphia, PA 19101-7346

Innovation Safety Solutions  
P.O. Box 110  
La Marque, TX 77568-0110

Instrumart  
35 Green Mountain Drive  
South Burlington, VT 05403-7824

Jack Haynie  
3826 Antibes Lane  
Houston, TX 77082-3138

Jas Brar  
2 Houston Center  
909 Fannin, Suite 1640  
Houston, TX 77010-1018

Lightning Bolt & Supply Inc.  
211 West Harris Avenue  
Pasadena, TX 77506-3411

Lightning Bolt & Supply Inc.  
10626 S. Choctaw Drive  
Baton Rouge, LA 70815

Logix  
P.O. Box 734120  
Dallas, TX 75373-4120

Martin Electric Co. Inc  
1504 W Jackson Street  
El Campo, TX 77437-9310

MidAmerican Energy Services  
P.O. Box 8019  
Davenport, IA 52808-9900

Mobile Modular Portable Stroage  
P.O. Box 45043  
San Francisco, CA 94145-5043

Nalco Company  
1601 W Diehl Road  
Naperville, IL 60563-1198

NetWolves  
4710 Eisenhower Blvd., Suite E-8  
Tampa, FL 33634-6336

Nicholas Boyd  
9720 Broadway St, Apt. 1534  
Pearland, TX 77584-8747

Oak, Hartline & Daly  
2323 S. Shepherd, 14th Floor  
Houston, TX 77019-7024

Pablo Rendon  
9314 Drewberry  
Houston, TX 77080-2938

Praxair  
P.O. Box 120812  
Dallas, TX 75312-0812

Quincy Compressor  
701 North Dobson Avenue  
Bay Minette, AL 36507-3199

RW Smith  
3030 Greens Road  
Houston, TX 77032-2204

Regus  
undeliverable

Satellite Shelters  
18500 Van Rd.  
Houston, TX 77049-1324

Saybolt LP  
201 Deerwood Glen Drive  
Deer Park, TX 77536-3270

Sun Coast Resources  
6405 Cavalcade Bldg 1  
Houston, TX 77026-4315

Terminix

4407 Halik Street, Suite E500  
Pearland, TX 77581-1901

Texas Mutual Insurance Company  
6210 E Highway 290  
Austin, TX 78723-1098

Timeline Logistics  
P.O. Box 131483  
Houston, TX 77219-1483

Turner Stone & Company  
12700 Park Central Drive, Suite 1400  
Dallas, TX 75251-1507

ULine  
12575 Uline Drive  
Pleasant Prairie, WI 53158-3686

US Trustee  
515 Rusk Ave., Ste 3516  
Houston, TX 77002-2604

United Rentals  
101 Old Underwood Rd., Bldg  
La Porte, TX 77571-9480

Vcorp  
25 Robert Pitt Dr., Suite 205  
Monsey, NY 10952-3366

Wastewater Transport Services  
826 Linger Ln  
Austin, TX 78721-3650

Wharton County Tax Office  
P.O. Box 189  
Wharton, TX 77488-0189

Williams Scotsman  
142 West Hardy Road  
Houston, TX 77060-4615

Eva S Engelhart  
7700 San Felipe, Suite 550  
Houston, TX 77063-1618

Megan M Adeyemo  
2200 Ross Avenue, Suite 4100 West  
Dallas, TX 75201-7902

JM Partners, LLC  
6800 Paragon Place, Suite 202  
Richmond, VA 23230-1656

Wharton County Taxing Authorities  
c/o Tara LeDay  
700 Jeffrey Way  
Round, Rock, Texas 78665

Wharton County Appraisal District  
Attn: Tylene Gamble, Chief Appraiser  
308 E. Milam St.